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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/683,970	10/10/2003	James E. Lange	DIE0009.01	1852
27187	7590	08/04/2006	EXAMINER	
BAKER & DANIELS LLP 205 W. JEFFERSON BOULEVARD SUITE 250 SOUTH BEND, IN 46601			COY, NICOLE A	
			ART UNIT	PAPER NUMBER
			3672	

DATE MAILED: 08/04/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/683,970	LANGE, JAMES E.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Nicole Coy	3672	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 05 June 2006.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-25 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-3,10-12,19 and 20 is/are rejected.
- 7) Claim(s) 4-9,13-18 and 21-25 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Information Disclosure Statement***

1. The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609.04(a) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-3, 10-12, and 19-20 rejected under 35 U.S.C. 102(b) as being anticipated by Pajari, Sr. (USP 5,116,147).

With respect to claim 1, Pajari, Sr. discloses an adapter coupling (see figure 1) for connecting a soil sampler barrel to a drill rod, said adapter coupling comprising a barrel adapter (5) for attaching said adapter coupling to the sampler barrel (see figure 1), a rod adapter (1) for connecting said adapter coupling to the drill rod (see figure 1), and an isolating mechanism (12) to isolate the sampler barrel from any upward vibratory

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movement of the drill rod so that the sampler barrel receives only downward motion from the drill rod (see column 1 line 60 to column 2 line 19).

With respect to claim 2, Pajari, Sr. discloses an isolating mechanism (12) that includes an isolator box connected to said rod adapter (see figure 1).

With respect to claim 3, Pajari, Sr. discloses an isolator pin attached to said barrel adapter (see figure 1).

With respect to claim 10, Pajari, Sr. discloses a soil sampling system comprising a drill rod (8), a sampler barrel (7) and an adaptor (5) for attaching said adapter coupling to said sampler barrel, a rod adapter (1) for connecting said adapter coupling to said drill rod, and an isolating mechanism (12) to isolate said sampler barrel from any upward vibratory movement of said drill rod so that said sampler barrel receives only downward motion from said drill rod (see column 1 line 60 to column 2 line 19).

With respect to claim 11, Pajari, Sr. discloses an isolating mechanism (12) includes an isolator box connected to said rod adapter (see figure 1).

With respect to claim 12, Pajari, Sr. discloses an isolator pin attached to said adapter (see figure 1).

With respect to claim 19, Pajari, Sr. discloses an adapter coupling for use with a vibratory drill, said adapter coupling comprising a rod adapter (1) for connection to a drill rod (8), a barrel adapter (5) for connection to a sampler barrel (7), and an isolating means (12) for isolating movement of said sampler barrel from upward vibratory movement of said drill rod (see column 1 line 60 to column 2 line 19).

With respect to claim 20, Pajari, Sr. discloses that said isolating means (12) includes an isolator box connected to said rod adapter and an isolator pin connected to said barrel adapter (see figure 1).

***Allowable Subject Matter***

4. Claims 4-9, 13-18, and 21-25 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Response to Arguments***

5. Applicant's amendments to the specification have overcome the previous objections. Thus, the objections to the specification have been withdrawn.

6. Applicant's arguments filed 6/5/06 have been fully considered but they are not persuasive.

Applicant first argues that Pajari, Sr. does not claim that the core/sampler barrel is only subject to downward movement. However, Pajari, Sr. also does not disclose that the core/sampler barrel is subject to upward movement. When the core barrel sample is moved upward, in the event of blockage, the vibrational force is not yet applied. In addition, when a vibrational force is applied, and if that force includes upward movement, the barrel adapter 5, the rod adapter 1, and the isolating mechanism 12, would inherently isolate the sampler barrel from any upward vibratory movement of the

drill rod, as in Applicant's invention. It is also noted that while a vibrational force would include moving both up and down, there is a vibratory movement in Applicant's invention, which means that Applicant's coupling, but for the isolating mechanism, is also subject to moving up and down. As there is an isolating mechanism taught in Parini, Sr., there is only a vibrational force on the core barrel assembly in the downward direction (see column 2 lines 10-19).

Applicant further argues that there is no mention in Pajari, Sr. of the drill rod vibrating. Please see column 2 lines 10-19, wherein Pajari, Sr. teaches that it is the drill rod (upper housing) which rotates and produces a vibrational force on the core barrel.

### ***Conclusion***

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nicole Coy whose telephone number is 571-272-5405. The examiner can normally be reached on M-F 7:30-5:00, 1st F off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Bagnell can be reached on 571-272-6999. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

nac



William Neuder  
Primary Examiner